REMARKS

Claims 3, 8-10 and 17-18 are pending in the instant application. Claim 17 stands rejected under 35 U.S.C. § 112, first paragraph, as lacking an enabling disclosure; and Claims 3, 8-10 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Claim 18 is allowed.

Claim 17 has been canceled herein without prejudice or disclaimer. Applicants in no way submit to the rejections of Claim 17 maintained by the Examiner. However, to facilitate and expedite prosecution of the other claims, Claim 17 has been canceled.; Claim 3 has been amended herein as suggested by the Examiner and for technical clarity. Support is found throughout the specification, for example at p. 107, line 21 to p. 109, line 25. Thus, no new matter is added by way of the claim amendments and addition made herein. A "Marked-Up Version" is attached to identify the amendments to the claims.

Rejection Under 35 U.S.C. § 112, First Paragraph

Claim 17 stands rejected under 35 U.S.C. § 112, first paragraph, as lacking an enabling disclosure. While claim 17 is canceled herein, Applicants maintain the traverse of the rejection. Claim 17 is only canceled without prejudice or disclaimer merely to expedite allowance of the application.

Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 3, and 8-10 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Applicants respectfully traverse.

While Applicants maintain their traverse of the rejection of the claims, Claim 3, and Claims 8-10 depending therefrom, have been amended herein for technical clarity. Applicants submit that the above amendments and remarks both address and obviate the rejection under 35 U.S.C. § 112, second paragraph as being indefinite and, thus, withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants submit that all claims now pending in the Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 781-1989.

Respectfully submitted,

DORSEY & WHITNEY LLP

Date: 8/28/02

Robin M. Silva, Reg. No. 38,304

Four Embarcadero Center, Suite 3400
San Francisco, California 94111-4187
Telephone No.: (415) 781-1989

1089890

Marked-Up Version Of Pending Claims

The claims have been amended as follows:

3. **(Twice Amended)** A method of screening for a nucleic acid capable of inhibiting translation of a nucleic acid sequence containing an IRES wherein said nucleic acid sequence is from a Hepatitis A virus, said method comprising the step of administering to [an organism] a cell *in vitro* said nucleic acid encoding a sequence that is complementary to at least a portion of said IRES, wherein the ability of said nucleic acid to inhibit translation of said viral nucleic acid sequence is detected by:

(a) contacting said nucleic acid with a reporter gene construct having the following elements operably linked: a replication origin, a promoter, a reporter gene, and said IRES, under conditions where said reporter gene is translated;

(b) measuring the level of the translation product of said reporter gene; and

(c) comparing said level of said translation product in (b) to the level of translation product synthesized by the reporter gene construct under the conditions of (a) but in the absence of said nucleic acid, thereby detecting said nucleic acid capable of inhibiting translation of said nucleic acid sequence.

17. **Cancel**

Appendix A -- Clean Version of the Currently Pending Claims

3. **(Once Amended)** A method of screening for a nucleic acid capable of inhibiting translation of a nucleic acid sequence containing an IRES wherein said nucleic acid sequence is from a Hepatitis A virus, said method comprising the step of administering to an organism said nucleic acid encoding a sequence that is complementary to at least a portion of said IRES, wherein the ability of said nucleic acid to inhibit translation of said viral nucleic acid sequence is detected by:

(a) contacting said nucleic acid with a reporter gene construct having the following elements operably linked: a replication origin, a promoter, a reporter gene, and said IRES, under conditions where said reporter gene is translated;

(b) measuring the level of the translation product of said reporter gene; and

(c) comparing said level of said translation product in (b) to the level of translation product synthesized by the reporter gene construct under the conditions of (a) but in the absence of said nucleic acid, thereby detecting said nucleic acid capable of inhibiting translation of said nucleic acid sequence.

8. The method of claim 3, wherein said nucleic acid fragment complementary to at least a portion of said IRES is an oligonucleotide comprising a purine tract of about 4 to 12 nucleotides.

9. The method of claim 3, wherein said nucleic acid fragment complementary to at least a portion of said IRES is an oligonucleotide comprising a purine tract of about 5 to 9 nucleotides.

10. The method of claim 9, wherein said oligonucleotide further comprises a CAT nucleotide triplet.

17. **(Canceled)**

18. A composition comprising a nucleic acid encoding a sequence that is complementary to at least a portion of a Hepatitis A virus IRES which contains a YX AUG sequence, wherein the nucleic acid is present in an amount effective for inhibiting viral replication, and wherein Y is a pyrimidine tract between 4 to 12 nucleotides, wherein X is a random spacer sequence of between 5 to 30 nucleotides.